

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NAHUM GILBERTO ORTIZ et al.,
Plaintiffs,

v.

ORANGE COUNTY, NEW YORK et al.,
Defendants.
-----X

ORDER

23 CV 2802 (VB)

On July 7, 2023, defendants U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, and Kenneth Genalo (the “Federal Defendants”) moved to dismiss the complaint. (Doc. #38).¹

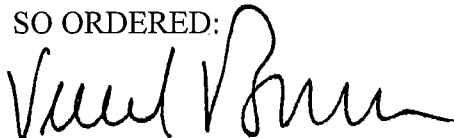
Accordingly, it is hereby ORDERED that, by no later than July 17, 2023, plaintiffs must notify the Court by letter whether plaintiffs (i) intend to file an amended complaint in response to the Federal Defendants’ motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If plaintiffs elect not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiffs a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in the Federal Defendants’ motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiffs elect to file an amended complaint, plaintiffs must file the amended complaint by no later than 14 days after notifying the Court of plaintiffs’ intent to do so. Within 21 days of such amendment, all defendants may either: (i) file an answer to the amended complaint; or (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that such defendants are relying on the initially filed motion to dismiss or answer (as applicable).

Dated: July 10, 2023
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

¹ Defendants Orange County, Paul Areta, Carl Dubois, and Kenneth Jones answered the complaint. (Doc. #40).